

## § 17.26

any party to the proceedings require or permit further filings or other action, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further action shall be allowed only when necessary for full and fair resolution of the issues arising from the application and shall take place as promptly as possible. A motion for further filings or other action shall specifically identify the information sought on the disputed issues and shall explain why the further filings or other action is necessary to resolve the issues.

(c) In the event that an evidentiary hearing is required or permitted by the adjudicative officer, such hearing and any related filings or other action required or permitted shall be conducted pursuant to the procedural rules governing the underlying adversary adjudication.

## § 17.26 Decision on application.

The Presiding Officer shall issue a recommended decision on the application which shall include proposed written findings and conclusions on such of the following as are relevant to the decision:

(a) The applicant's status as a prevailing party;

(b) The applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B);

(c) Whether EPA's position as a party to the proceeding was substantially justified;

(d) Whether the special circumstances make an award unjust;

(e) Whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and

(f) The amounts, if any, awarded for fees and other expenses, explaining any difference between the amount requested and the amount awarded.

## § 17.27 Agency review.

The recommended decision of the Presiding Officer will be reviewed by EPA in accordance with EPA's procedures for the type of substantive proceeding involved.

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## § 17.28 Judicial review.

Judicial review of final EPA decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

## § 17.29 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Office of Financial Management for Processing. A statement that review of the underlying decision is not being sought in the United States courts or that the process for seeking review of the award has been completed must also be included.

## PART 18—ENVIRONMENTAL PROTECTION RESEARCH FELLOWSHIPS AND SPECIAL RESEARCH CONSULTANTS FOR ENVIRONMENTAL PROTECTION

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SOURCE: 71 FR 16702, Apr. 4, 2006, unless otherwise noted.

## § 18.1 Definitions.

As used in this part, continental United States does not include Hawaii or Alaska. The Administrator means the Administrator of the EPA and any other officer or employee of the Agency to whom the authority involved may be delegated. An Environmental Protection Research Fellowship is one which requires the performance of services, either full or part time, for the EPA. A Special Research Consultant